

IN THE DRAWING:

It appears that the drawing is in order, although there was no specific approval by the Examiner.

## REMARKS

### SUMMARY

In the Office Action of December 6, 2005, the Examiner rejected certain claims based on 35 U.S.C. §102 and still others on 35 U.S.C. §103(a). The Applicants have cancelled original Claims 1 through 30 and added new claims 31 through 40. Applicants believe that the rejections based on 35 U.S.C. §102, and 35 U.S.C. §103(a) are now moot in view of these new claims.

### DISCUSSION OF PRIOR ART

The Examiner individually considered White, or combined White with Shockley, Hussaini, and/or Tallman in rejecting the original claims as set forth in the Office Action of December 6, 2005. The new claims clearly distinguish Applicant's invention from these references for the following reasons:

White, the main reference the Examiner relied upon in rejecting the original claims, discloses a motorcycle jack having a base made of angle irons (not a cast metal) that enclose a conventional jack having a lifting arm connected to a platform. White uses a pair of support arms on each side of the platform that pivotably connect the base and platform. The platform is also made of angle irons and is not a cast metal. The side members forming the White base are substantially straight along their entire length and do not have an intermediate segment that is directed inward towards a longitudinal axis of the White jack. As shown in Fig. 2,

the platform of the White jack overlaps the front end of the White jack when lowered, thereby increasing the effective length of the jack.

Both Shockley and Hussaini were cited to show safety stops and Tallman was cited to show a detachable handle.

The new claims include the language clearly distinguishing Applicants' invention from the cited art and the newly disclosed Pietrusynski patent. This language is highlighted and discussed in the following analysis of the new claims:

As set forth in new Claim 31 Applicants' jack includes:

Each side member has "...a forward segment, a rear segment, and an inward tapering intermediate segment at substantially the same location along each side member between the forward and rear segments..."

The "...forward segments of each side member having substantially equal lengths, said rear segments of each side member having substantially equal lengths, and said intermediate segments of each side member having substantially equal lengths, the lengths of the rear segments being less than the lengths of the forward segments..."

The "...forward segments each terminating in a front end and said front ends being opposite each other, said

forward segments being substantially parallel to each other and separated by a first predetermined distance and said rear segments being opposite each other and substantial parallel to each other and separated by a second predetermined distance that is less than the first predetermined distance..."

A stiffening element extends "...between the front ends of each of said forward segments, said stiffening element serving as an axle having opposed ends with a wheel mounted on each end of the stiffening element outboard of the side members..."

A platform that has "...a width that is substantially equal to said first predetermined distance and a length that is substantially equal to said predetermined length of the forward segments..."

A "... first single support arm..." and a "...second single support arm..." one connected to each side member between the side member and the platform.

As set forth in new Claim 38 Applicants' jack weighs less than substantially 85 pounds and includes:

A "...cast aluminum base ..." where "...each side member..." has "...an intermediate segment...pointing inward towards the longitudinal axis..."

A “...stiffening element extending between the front ends of each of said forward segments, **said stiffening element serving as an axle having opposed ends with a wheel mounted on each end of the stiffening element...**”

A “...platform having a substantially rectangular configuration of predetermined dimensions and **the forward segments at least in part defining a rectangular area of the base having dimensions substantially the same as the predetermined dimensions of the platform...**”

A “...cast aluminum lift arm...”

A “...driver assembly ... including a hydraulic cylinder having ram element coupled to the lift member, said ram element in response to manual actuation moving substantially horizontal causing the platform to move between a lowered position and elevated position, **said platform overlying and in substantial registration with said rectangular area of the base when in the lowered position.**”

As set forth in new Claim 40 Applicants' jack includes:

A “...base having a pair of spaced apart substantially planar side members, each side member having a forward segment, a rear segment and an **inward projecting intermediate segment connecting the forward and the rear segments to provide a front**

**base portion having a width dimension that is greater than a width dimension of the rear portion, said forward, rear and intermediate segments being in registration, said forward segments each terminating in a front end and said front ends being opposite each other..."**

A "...stiffening element extending between the front ends of each of said forward segments, said **stiffening element serving as an axle** having opposed ends with a wheel mounted on each end of the stiffening element..."

The "...stiffening element and parallel forward segments **defining at least in part boundaries of a rectangular area of the base having dimensions substantially the same as the predetermined dimensions of the platform**, so that when said platform is in a lowered position said platform overlies said front base portion and substantially covers the rectangular area..."

As pointed out in one or more of the Claims 32 through 38, in Applicants' invention (1) the side members, platform and lift arm are of **cast metal** Claim 32 - aluminum in Claims 33 and 38, (2) the jack **weighs less than substantially 85 pounds** - Claims 33 and 38, (3) the forward and rear segments of the side members are **substantially planar and substantially vertically oriented** when the jack is resting on the ground - Claim 34, (4) the forward segments are in registration with each other and equidistance from the longitudinal axis and

said rear segments are in registration with each other and equidistance from longitudinal axis - Claim 35, (5) the forward segments each comprise at least substantially 50 percent of the length of the side member and the rear segments each comprise no more than substantially 25 percent of the length of the base - Claims 36, 39, 41 and 42, and (6) the platform has a substantially rectangular configuration of predetermined dimensions and the forward segments at least in part define a rectangular area of the base having dimensions substantially the same as the predetermined dimensions of the platform, said platform overlying said area when in the lowered position.

The highlighted sections of the new claims set forth structure when considered in conjunction with the other language of these new claims is not disclosed or suggested by any of the references.

FESTO DOCTRINE AND NO SURRENDER OF  
PATENTABLE SUBJECT MATTER

The new claims avoid the application of the Festo doctrine, Festo Corp. v Shoketsu Kinzoku Kogyo Kabushiki Co., Ltd., et al 535 U. S. 722 (2002), broadly reciting the subject matter that the Applicants believe is allowable, taking into consideration the limitations of the English language and the inability of the Applicants to foresee all the possible equivalents that may be developed in the future. The Applicants intent to claim broadly the subject matter of their invention and not surrender equivalent subject matter by making any narrowing amendment. Therefore, the new

claims are entitled to the application of the doctrine of equivalents under Warner-Jenkinson v. Hilton Davis Chemical Co., 520 U. S. 17 (1997).

### **INFORMATION DISCLOSURE STATEMENT**

Enclosed herewith is an Information Disclosure Statement and Cheque No. 2540 in the amount of \$180 to cover the required fee. If any additional charges are required, please charge Applicant's attorney's deposit account as authorized below.

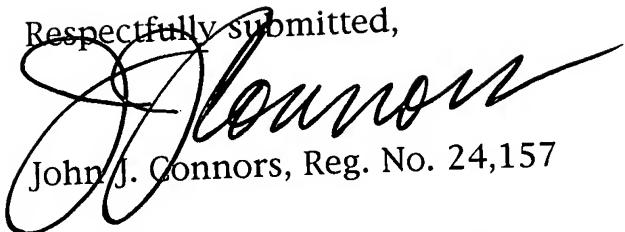
### **TELEPHONE INTERVIEW**

If the Examiner believes that a telephone interview would advance the allowance of this application, Applicant's attorney requests the Examiner call to arrange a date and time for such interview after having an opportunity to review the above.

### **CUSTOMER NUMBER**

Please note Applicant's attorney Customer No. 021905, and confirm that this customer number has been entered in the U. S. Patent & Trademark Office records in connection with the above-identified application.

Respectfully submitted,



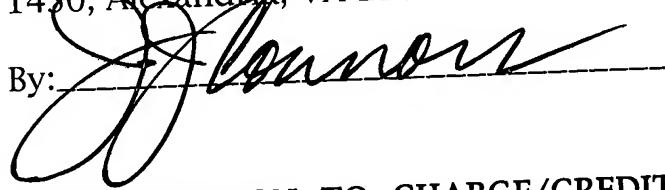
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#### CERTIFICATE OF MAILING

I hereby certify that this correspondence is being mailed with the United States Postal Service as First Class Mail, the correct postage paid, in an envelope addressed to: Honorable Commissioner of Patents, P. O. Box 1450, Alexandria, VA 22313-145020231, on March 6, 2006

By: 

#### AUTHORIZATION TO CHARGE/CREDIT DEPOSIT ACCOUNT

The commissioner is hereby authorized to charge payment of any additional fees associated with this communication or credit any overpayment to Deposit Account No. 03-2830.

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